

April 8, 2020

Robert Salgado and Ayman Shiblak, Acting District Managers
California Division of Occupational Safety and Health
San Bernardino District Office
464 W. 4th Street, Ste. 332
San Bernardino, CA 92401
Via e-mail: DOSHSB@dir.ca.gov

Re: Formal Employee Health and Safety Complaint for Imminent and Serious Hazards from COVID-19 at Amazon LGB3 Fulfillment Center in Eastvale

Dear Mr. Salgado and Mr. Shiblak,

This complaint is submitted on behalf of [REDACTED], [REDACTED], and [REDACTED], all current employees at the Amazon LGB3 Fulfillment Center located at 4950 Goodman Road, Eastvale, CA 91752. The complainants request that Cal/OSHA keep the identity of all employees named in this complaint confidential, as required by law. The above employees have designated the Warehouse Worker Resource Center as their representative in all contacts with Cal/OSHA and the employer for this complaint and in regard to any resulting citations.

This letter serves as a serious formal “imminent hazard” complaint against Amazon, Inc. and the Amazon LGB3 Fulfillment Center pursuant to California Labor Code § 6309 and Cal/OSHA Policy & Procedures Manual C-7. The complainants request that Cal/OSHA conduct an immediate on-site inspection of their workplace to investigate serious and imminent hazards, and the “realistic possibility that death or serious physical harm could result from the actual hazard[s],” posed by confirmed COVID-19 infections among employees and grossly inadequate infection prevention and control measures implemented by Amazon LGB3.

The unsafe conditions at Amazon LGB3 occurred and continued despite the national State of Emergency declared in response to the COVID-19 by the President on March 13, 2020, the State of Emergency issued by the Governor of California on March 4, 2020, and the Governor’s Executive Order of March 19, 2020, directing all individuals to stay at home unless employed within critical infrastructure industries.

Operating within a critical infrastructure industry, however, does not absolve Amazon, Inc. of its obligation to keep its employees safe from the threat of “death or serious physical harm,” which inarguably results from direct exposure to COVID-19.

Hazards from COVID-19 at Amazon LGB3 are Serious and Imminent

The unsafe conditions at Amazon LGB3 meet the criteria for serious violations pursuant to California Labor Code § 6309 and P&P C-7 due to the substantial physical harm posed by COVID-19 and likelihood of infection due to its confirmed presence in employees within the worksite, highly contagious nature, large number of employees onsite, and the inadequate infection prevention and control measures described below.

Given the documented potential for COVID-19 to spread rapidly among employees and the conditions at Amazon LGB3 described in this complaint, the harm of exponentially increasing infections is likely to occur well before regular enforcement procedures could intervene, warranting treatment as an imminent hazard per P&P C-7 D.1. As an imminent hazard complaint, Cal/OSHA should make every effort to investigate the hazard on the same day the complaint is received. At minimum Cal/OSHA should investigate no later than three working days after receipt of this complaint of serious violations, pursuant to Labor Code § 6309.

Pursuant to P&P C-7 E.3.a., “a formal complaint alleging a serious hazard shall be investigated by a physical inspection of the subject place of employment within three working days of receipt of the complaint. . . .” (emphasis added). In addition to alleging a serious and imminent hazard, this complaint is a formal complaint per P&P C-7 E.2, as it is submitted by an attorney and designated representative of multiple current employees.

If based on the information provided herein you do not believe this matter should be classified as a serious formal complaint, or if for any reason you do not plan to conduct a physical inspection, please contact us as soon as possible to discuss that determination.

Amazon LGB3 Background and Potential Employee Exposure

With an average of approximately 3,000 employees working onsite, the Amazon LGB3 Fulfillment Center is one of the largest worksites in the county. The total number of employees potentially exposed to COVID-19 is likely much higher, however, due to a high turnover rate exacerbated by current conditions. A recent report by the National Employment Law Project found that counties hosting Amazon fulfillment centers have employee turnover rates in the warehouse sector that are much higher than the average rate of turnover for warehouse workers in California and workers in other industries overall in the state. In Riverside County in 2017, home of six Amazon Fulfillment Centers, more people left warehouse jobs than entered,

resulting in a 106.5% turnover rate.¹ Moreover, in recent weeks Amazon has been in the process of hiring over 100,000 new employees to help handle the increased business created by the crisis.²

Amazon LGB3's Responsibilities to Protect its Employees from COVID-19

The emergency conditions of the Coronavirus pandemic do not excuse Amazon LGB3 of its fundamental responsibility to “furnish employment and a place of employment that is safe and healthful for the employees therein” (Labor Code § 6400(a)), “do every other thing reasonably necessary to protect the life, safety, and health of employees,” (Labor Code § 6403(c)), and to follow specific Cal/OSHA safety regulations.

Cal/OSHA's *Interim Guidelines for General Industry on 2019 Novel Coronavirus Disease (COVID-19)* specify that 8 CCR § 3203 (Illness and Injury Prevention Program) requires employers to “determine if COVID-19 infection is a hazard in their workplace,” and, if it is, to “implement measures to prevent or reduce infection hazards, such as implementing the CDC recommended actions.” The Cal/OSHA guidelines also specify that 8 CCR § 5141 (Control of Harmful Exposures) applies to COVID-19 as a harmful exposure if there is an increased risk of infection in the workplace and state that in this context, “[e]mployers must implement engineering controls where feasible and administrative controls where practicable, or provide respiratory protection where engineering and administrative controls cannot protect employees and during emergencies.”

Where Amazon LGB3's COVID-19 prevention and control measures prove hazardously inadequate because they fall short of CDC guidelines or other standards of effectiveness, they violate 8 CCR §3203 (IIPP) requirements to take appropriate action to fix hazards, and in many cases 8 CCR § 5141 requirements to utilize the full hierarchy of controls to limit harmful exposure. Other specific safety standards are also being violated, as detailed below.

¹ National Employment Law Project, *Amazon's Disposable Workers: High Injury and Turnover Rates at Fulfillment Centers in California*, March 2020, <https://www.nelp.org/publication/amazons-disposable-workers-high-injury-turnover-rates-fulfillment-centers-california/>.

² Bloomberg, “Amazon's Covid Hiring Boom Has Applicants Packed Into Job Fairs With No Special Precautions,” April 1, 2020, <https://www.bloomberg.com/news/articles/2020-04-01/amazon-s-hiring-spree-followed-no-special-coronavirus-precautions>.

Ongoing and Serious Hazardous Conditions at Amazon LGB3 Include:

1. Failing to close off areas with COVID-19 employee cases and effectively remove exposed employees from the hazard. 8 CCR § 3203 (IIPP).

With an infectious disease, one of the most effective controls to prevent transmission is removing employees from the affected area. Closing work areas with infections must be a prime consideration under the requirements of 8 CCR § 3203(a) to identify and correct hazards. Section 3203(a)(6)(B) also requires employers to “remove all exposed personnel from the area” when “an imminent hazard exists which cannot be immediately abated without endangering employee(s) and/or property” In a building with as much circulation of goods and employees as Amazon LGB3, the affected area warranting temporary closure may be most of the facility. Instead of complying with state regulations and the general consensus regarding the threat to life and safety posed by COVID-19, at Amazon LGB3:

- Managers did not broadly notify employees of the first confirmed workplace COVID-19 case, only sending a text message announcement after a second case was confirmed. The announcement came on March 29, 2020, almost a week after managers learned of the first case.
 - Managers have not broadly disclosed to employees the general floors, departments, or sections where the infected employees worked, preventing employees from knowing their degree of exposure or taking appropriate personal protective measures.
 - Amazon LGB3 did not close off the whole facility or even smaller areas believed to be visited by the infected employees for any significant period of time, contrary to CDC guidance to close off areas and “wait 24 hours or as long as practical before beginning cleaning and disinfecting” after suspected or confirmed COVID-19 cases.
2. Inadequate sanitation practices to prevent the spread of COVID-19 on surfaces. 8 CCR §§ 3203 (IIPP) and 3362 (Sanitation).
 - Workers have to sanitize equipment themselves that was touched by other workers on previous shifts, including scanners, touchscreens, keyboards, carts, and other warehouse equipment. Increased cleaning in the facility has included floors and tables, but not workstations or equipment for the most part.
 - Workers are only given sanitary wipes to clean and disinfect workstations and equipment, with many only being allowed one wipe at the beginning of each shift.
 - Workers are not provided with cleaning or sanitizing supplies beyond the initial sanitary wipe to keep workstations and equipment disinfected, or to be able to disinfect at the end of their shifts as recommended by the CDC for equipment that must be shared.

- Hundreds if not thousands of plastic yellow bins are used to move goods along conveyor belts extensively throughout the warehouse while being touched by many workers. Yet workers have not seen evidence of these bins being sanitized regularly.
3. Inadequately implemented administrative controls to maintain physical distancing in the workplace. 8 CCR §§ 3203 (IIPP) and 5141 (Control of Harmful Exposure).
- Amazon and LGB3 have made numerous policy changes that are supposed to increase social distancing in the workplace, including eliminating large daily team “stand-up” meetings, staggering shift changes, and reducing seating in break rooms. However, physical distancing in practice has been unevenly and ineffectively enforced over the past several weeks as COVID-19 risk grew, with people crowding too close in restrooms, break rooms, and talking in groups during shift change and elsewhere.
 - Many jobs still involve working within less than the 6-foot distance of other people recommended by the CDC, especially in loading docks, packing, scanning, and for water spiders who keep operations stocked and circulate extensively around the facility.
 - Starting around the week of April 6, 2020, management has intensified disciplining workers for violating 6-foot distance guidelines, including threatening termination, without making the changes in workflow and equipment that are necessary for workers to both get their jobs done and keep the 6-foot distance.
4. Inadequate provision of Personal Protective Equipment. 8 CCR §§ 3203 (IIPP), 3380 (PPE), and 5141 (Control of Harmful Exposure).
- Warehouse workers are not provided with disposable gloves, despite in some positions handling many hundreds of items, often recently touched by other workers. Instead, they are provided with cloth and rubber work gloves, which they are supposed to reuse. Employees are allowed a limited number of pairs per week, usually only two, and they are not provided the cleaning supplies or necessary time to maintain the gloves in sanitary condition, as mandated by 8 CCR § 3380(d). The cloth base of the gloves is also not an appropriate barrier against contamination.
 - Up until the week of April 6, 2020, warehouse workers were not provided with face masks unless they reported being sick, despite the growing COVID-19 risk and confirmed workplace cases.
5. Failure to ensure opportunities for regular and accessible handwashing and sanitizing. 8 CCR §§ 3203 (IIPP) and 3366 (Washing Facilities).
- Workers are not given sufficient time to wash their hands or sanitize, in addition to their regular job duties. Restrooms with washing facilities are often a 3- or 5-minute walk

away for many employees, and many warehouse workers risk violating Amazon's demanding and inflexible daily performance quotas if they take restroom breaks, much less additional time for regular hand washing. Although some workers have been told performance targets are being reduced, others still experience the same quota demands from managers, indicating that any new policy of slowing quotas has not been communicated clearly enough and many workers still do not have adequate opportunity for regular handwashing within workload constraints.

- Hand sanitizer dispensers are only available in limited locations such as by restrooms, and are not near main work areas for most warehouse workers.
- Dispensers have been running out hand sanitizer frequently, with workers across various shifts and departments reporting it is rare to find available.

6. Inadequate training for employees on limiting COVID-19 exposure within the specific operating procedures of the worksite. 8 CCR § 3203 (IIPP).

Thorough employee training about hazards and how to minimize them is a cornerstone of an effective Injury and Illness Prevention Program, and employers are specifically required to provide training and instruction "[w]henver the employer is made aware of a new or previously unrecognized hazard." Section 3203(a)(7)(E). Warehouse workers have been told general guidance from supervisors to wash their hands and practice physical distancing, and these suggestions have been communicated by posters and short videos on some log in screens as well, but workers have not been given formal or structured training or instruction on COVID-19 hazard mitigation.

General guidance on COVID-19 reduction practices is grossly inadequate instruction for LGB3 employees, who should be given more specific training on how to reduce the hazard within the context of their work operations, such as on procedures for maintaining physical distancing when multiple workers need access to an aisle, loading dock, or other confined area, or on how to program regular handwashing within production demands, as well as training for supervisors on implementing any such procedures, to name but a few examples.

7. Maintaining strict paid sick leave policies that may discourage sick employees from staying home. 8 CCR § 3203 (IIPP).

Amazon states it has a policy of providing up to two weeks of paid sick leave for employees with COVID-19 or on required quarantine. However, employees are being told that they must be actually diagnosed with COVID-19 or have a doctor's note to access this benefit. This runs counter to CDC recommendations and will likely lead to many employees with mild symptoms who are contagious remaining at work and infecting others because they cannot afford to stay home without pay.

Willful Violations

Over 540 employees have signed a petition (see enclosed Attachment B) demanding that the Amazon LGB3 facility be closed off and cleaned properly, and that workers be compensated for time away from work due to any closure. Individual workers have also complained to supervisors and managers about hazards including, but not limited to, the lack of communication about initial workplace infections, the lack of appropriate PPE, and other issues raised in this complaint. Amazon LGB3 management is thus well aware of these hazards, and, in failing to make reasonable efforts to correct the “realistic possibility that death or serious physical harm could result from the actual hazard[s],” have willfully violated these standards.

Investigation Procedures

All of the Amazon LGB3 employees included in this complaint are willing to provide Cal/OSHA with additional information to assist with its investigation. Additional employees not included in this complaint are willing to speak with Cal/OSHA as well. Warehouse Worker Resource Center is happy to arrange for Cal/OSHA to meet privately with the complainants and additional employees, at a site away from the workplace, or by phone or videoconference if warranted by COVID-19 restrictions. We request that you keep confidential the name and contact information of every employee you interview to help avoid employer retaliation.

As the designated employee representative for the complainants, we request to be notified of and included in the Opening and Closing Conferences, as well as any post-citation Informal Conference, held with the employer, or to have separate Opening and Closing Conferences, or Informal Conference, with Cal/OSHA and affected employees if the employer insists on separate conferences. As a designated employee representative, we also request “walkaround” rights to accompany an inspector on the tour of inspection pursuant to Labor Code § 6314(d).

* * *

To arrange to discuss the hazards in this complaint with the complaining employees, and for any questions or concerns regarding this complaint, please contact me at [REDACTED] or [REDACTED]. Thank you for your prompt and immediate attention to this serious matter.

Sincerely,



Timothy Shadix, Esq.

Legal Director, Warehouse Worker Resource Center

Cc:

Peter Riley, Regional Manager
Cal/OSHA Region 3

Debra Lee, Deputy Chief
Cal/OSHA Field Enforcement

Doug Parker, Chief
Cal/OSHA

Attachment A:
Authorizations for Employee Representation

[REDACTED]

Attachment B:

**Employee Petition to Amazon LGB3 Management
Regarding COVID-19 Hazards**

Amazon LGB3 — Close, Clean & Paid Leave!

Multiple Amazon locations have had confirmed cases of COVID-19. Amazon expects associates to risk both their and their families' safety by continuing to come into work.

Amazon is not effectively communicating with ALL employees during this global pandemic.

At LGB3 specifically, social distancing it is almost impossible. Amazon is trying to take precautions to slow the spread of COVID-19, but the fact of the matter is we work with so many people every single day that we are in constant danger.

Amazon must shut down temporarily, paying workers at LGB3 while the facility is shut and cleaned.

We the Amazonians United at LGB3 demand:

- 1.) The facility must be shut down for a minimum of two weeks
- 2.) Workers should be given paid leave at their normal pay rate while the facility is thoroughly sterilized
- 3.) All workers are provided with free testing for the virus.
- 4.) When work comes back, Amazonians should be given:
 - 1.5x Hazard Pay,
 - Child Care pay and subsidies
 - No More Rate-Based Write-ups
 - REAL Paid Sick Leave Regardless of Covid-19 Diagnosis

The Inland Empire's number of Covid-19 cases is growing every day, so exponentially that our government is concerned that more people in our communities are going to die if we don't follow these stay at home orders.

We are standing together to stop the spread!

Sincerely,